



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2283

Introduced 2/18/2009, by Rep. Cynthia Soto

SYNOPSIS AS INTRODUCED:

750 ILCS 5/602
750 ILCS 5/610

from Ch. 40, par. 602
from Ch. 40, par. 610

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that in considering the best interest of a child, the court shall not consider the military deployment of a present or proposed custodian. Provides that with respect to the modification of any custody order that the court shall not permanently modify a prior custody judgment during the deployment of active-duty military member, defined as a person currently serving on active duty as a member of the Armed Forces of the United States, the Illinois National Guard, or any reserve component of the Armed Forces of the United States.

LRB096 09929 AJO 20093 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by changing Sections 602 and 610 as
6 follows:

7 (750 ILCS 5/602) (from Ch. 40, par. 602)

8 Sec. 602. Best Interest of Child.

9 (a) The court shall determine custody in accordance with
10 the best interest of the child. The court shall consider all
11 relevant factors including:

12 (1) the wishes of the child's parent or parents as to
13 his custody;

14 (2) the wishes of the child as to his custodian;

15 (3) the interaction and interrelationship of the child
16 with his parent or parents, his siblings and any other
17 person who may significantly affect the child's best
18 interest;

19 (4) the child's adjustment to his home, school and
20 community;

21 (5) the mental and physical health of all individuals
22 involved;

23 (6) the physical violence or threat of physical

1 violence by the child's potential custodian, whether
2 directed against the child or directed against another
3 person;

4 (7) the occurrence of ongoing or repeated abuse as
5 defined in Section 103 of the Illinois Domestic Violence
6 Act of 1986, whether directed against the child or directed
7 against another person;

8 (8) the willingness and ability of each parent to
9 facilitate and encourage a close and continuing
10 relationship between the other parent and the child; and

11 (9) whether one of the parents is a sex offender.

12 In the case of a custody proceeding in which a stepparent
13 has standing under Section 601, it is presumed to be in the
14 best interest of the minor child that the natural parent have
15 the custody of the minor child unless the presumption is
16 rebutted by the stepparent.

17 (b) The court shall not consider conduct of a present or
18 proposed custodian that does not affect his relationship to the
19 child.

20 (c) Unless the court finds the occurrence of ongoing abuse
21 as defined in Section 103 of the Illinois Domestic Violence Act
22 of 1986, the court shall presume that the maximum involvement
23 and cooperation of both parents regarding the physical, mental,
24 moral, and emotional well-being of their child is in the best
25 interest of the child. There shall be no presumption in favor
26 of or against joint custody.

1 (d) The court shall not consider the military deployment of
2 a present or proposed custodian.

3 (Source: P.A. 94-377, eff. 7-29-05; 94-643, eff. 1-1-06;
4 95-331, eff. 8-21-07.)

5 (750 ILCS 5/610) (from Ch. 40, par. 610)

6 Sec. 610. Modification.

7 (a) Unless by stipulation of the parties or except as
8 provided in subsection (a-5), no motion to modify a custody
9 judgment may be made earlier than 2 years after its date,
10 unless the court permits it to be made on the basis of
11 affidavits that there is reason to believe the child's present
12 environment may endanger seriously his physical, mental, moral
13 or emotional health.

14 (a-5) A motion to modify a custody judgment may be made at
15 any time by a party who has been informed of the existence of
16 facts requiring notice to be given under Section 609.5.

17 (b) The court shall not modify a prior custody judgment
18 unless it finds by clear and convincing evidence, upon the
19 basis of facts that have arisen since the prior judgment or
20 that were unknown to the court at the time of entry of the
21 prior judgment, that a change has occurred in the circumstances
22 of the child or his custodian, or in the case of a joint
23 custody arrangement that a change has occurred in the
24 circumstances of the child or either or both parties having
25 custody, and that the modification is necessary to serve the

1 best interest of the child. The existence of facts requiring
2 notice to be given under Section 609.5 of this Act shall be
3 considered a change in circumstance. In the case of joint
4 custody, if the parties agree to a termination of a joint
5 custody arrangement, the court shall so terminate the joint
6 custody and make any modification which is in the child's best
7 interest. The court shall state in its decision specific
8 findings of fact in support of its modification or termination
9 of joint custody if either parent opposes the modification or
10 termination.

11 (c) Attorney fees and costs shall be assessed against a
12 party seeking modification if the court finds that the
13 modification action is vexatious and constitutes harassment.

14 (d) Notice under this Section shall be given as provided in
15 subsections (c) and (d) of Section 601.

16 (e) The court shall not permanently modify a prior custody
17 judgment while an active duty military member is deployed.
18 "Active-duty military member" means, for purposes of this
19 Section, a person who is currently serving on active duty as a
20 member of the Armed Forces of the United States, the Illinois
21 National Guard, or any reserve component of the Armed Forces of
22 the United States.

23 (Source: P.A. 94-643, eff. 1-1-06.)